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Kailuan eviction hearing slated for tomorrow

STORY SUMMARY »

A Circuit Court hearing tomorrow could decide whether former leaseholders at the Kailuan cooperative become the first multifamily tenants in the state to be evicted at the end of their lease term.

Kaneohe Ranch, owner of the groundlease for the Kailuan, began eviction proceedings against former lessees in early January. However, members of the cooperative retained former Bishop Estate trustee Gerard Jervis to halt the action. Jervis, who was on the landowner side of many leasehold disputes before his removal as trustee in 1999, has brought in another Kailua attorney and former state representative, Joseph Gomes, to assist in what could be a precedent-setting case for Hawaii.

FULL STORY »

By Allison Schaefer

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A Circuit Court judge could decide tomorrow whether former leaseholders at the Kailuan cooperative, whose lease expired on Dec. 31, have enough arguments to halt eviction proceedings or pursue their own case against landowner **Kaneohe Ranch**.

Judge Glenn J. Kim will hear the case, which is set to begin at 9 a.m. The hearing, which will be held in Room 5C on the fifth floor of the court building at 1111 Alakea St., was called in response to an eviction lawsuit filed by Kaneohe Ranch.

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If an eviction is sustained, the Kailuan families would be the first leasehold apartment owners in Hawaiian history to be evicted from their homes, said Vishaka Devi Jokiel, one of the half dozen or so co-op owners who have stayed passed their lease expiration.

"This would set a very dangerous precedent for all other leasehold apartment owners in Hawaii

whose leases will expire in the future," she said.

Kaneohe Ranch has steadily maintained that the situation is unique and that actions have been dictated by the need to address an Environmental Protection Agency mandate that requires the immediate closure of a large capacity cesspool.

Jervis, who took the case pro bono, said he'll argue tomorrow not only that the former Kailuan leaseholders should not be evicted but that their rights were violated. Kaneohe Ranch violated Hawaii Revised Statute 514C, which gives co-op owners the right of first refusal to purchase their homes, Jervis said.

"These people wanted to buy their homes, but Kaneohe Ranch refused to sell the property to them," said Jervis.

Kaneohe Ranch declined a multimillion-dollar offer from shareholders in December and ordered them to vacate the building, he said.

"The intent of the law isn't to let the lease run out and then sell to someone else," Jervis said. "Public sentiment out there is that enough is enough."

The law gave the **Kailuan Inc.** a right of first refusal only if Kaneohe Ranch was going to sell the property while the Kailuan's lease was still in effect, said Kaneohe Ranch's attorney Rosemary Fazio.

"Because there never was any such offer, (the Kailuan Inc.) never had a right of first refusal," Fazio said.

Kailuan leaseholders let their own lease expire by not choosing to force Kaneohe Ranch to sell the property to them during the more than 12 years that the city's lease-to-fee conversion law was in effect, she said.

Now, Fazio said, that the few shareholders who still occupy the property "are doing so illegally."

Sara Way, a former Kailuan shareholder who must use a wheelchair to get around, said that she's anxiously waiting for the judge's ruling, which could determine how independently that she is able to live her life in the future.

"I haven't started packing," Way said late Monday night. "I'm still praying."

Despite the pending legal action, Kaneohe Ranch has continued to assist former lessees with relocation.